

Meeting of 2000-4-25 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING

APRIL 25, 2000 - 6:00 P.M.

WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:

Presiding Bill Baker, City Manager

John Vincent, City Attorney

Brenda Smith, City Clerk

Lt. Col. Jeff Ewing, Fort Sill Liaison

The meeting was called to order at 6:00 p.m. Invocation was given by Dr. Vancel Garoutte, Grace United Methodist Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One

James H. Hanna, Ward Two

Glenn Devine, Ward Three

John Purcell, Ward Four

Robert Shanklin, Ward Five

Charles Beller, Ward Six

Stanley Haywood, Ward Seven

Randy Warren, Ward Eight

ABSENT: None.

Mayor Powell welcomed members of the Lawton-Fort Sill Teen Council who were in attendance.

INTRODUCTION OF ARTS & HUMANITIES ADMINISTRATOR

Gary Salva, Parks & Recreation Director, introduced Margaret Chalfant who was recently hired to serve as Arts & Humanities Administrator. He explained her qualifications and Ms. Chalfant said she considered it a privilege to serve.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF APRIL 11 AND SPECIAL

MOVED by Smith, SECOND by Warren, for approval of the minutes.

Shanklin said he wanted to call attention to Page 453, Minutes of April 11, where he made a statement and evidently it was not correct, and if it was not correct, he wanted the City Attorney to say yes or no. He said the minutes show he wanted to read two things from Legal, "the City is not allowed to charge a rate which discriminates between the municipality's customers and outside purchasers and if the outside purchasers' rate is higher, it may only include the cost of providing the water" and that was shot down the other night. Shanklin read "it will require each and every user of the facilities of the trust estate to pay the rates, fees and charges in accordance with uniform rates". He asked the City Attorney what part of that was not true. Vincent said both of those are true statements. Shanklin said the minutes from the other night reflect that the City Attorney did not even know what he was talking about. Vincent said he did not understand the first question. Shanklin said we will find out when we get to the next water trust authority.

VOTE ON MOTION: AYE: Hanna, Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Clarence Williams, 1817 Jefferson, related problems with his demolishing a house at 1506 SW 4th Street, and with citations he had been receiving for properties at 1506 and 1508 SW 4th Street and 1817 Jefferson for junk and debris. He said it was his understanding that Council had granted him six months to do the work under the permit that he had. The number of citations issued and fines due was discussed.

Dan Tucker, Code Administration Director, stated demolition could be done under a remodel permit but that Mr. Williams was bringing materials onto the site and was being cited for that junk and debris. Williams said his interpretation of junk and debris was different from that of the inspector, and that he had two washing machines on the porch. Williams said he wanted the inspector to give him a written statement that the properties were cleaned up after he gets that done. Haywood offered to assist Mr. Williams. Shanklin cautioned against moving junk and debris from one address to the other.

UNFINISHED BUSINESS:

1. Consider the damage claim of Karen Lynette and Herman Kesner. Exhibits: Claims Memorandum/Recommendation.

Vincent said Council considered this claim on April 11 and asked the City Attorney's Office to review the dollar figure amount to see what would be payable if it were a payable claim. It was determined that based on depreciation of carpet and other things, plus the living expenses in the motel, that an appropriate figure would be \$1,470.

Devine requested the City Attorney provide legal opinions as to what could happen to the Council members if the claim is approved, and that the City Attorney had distributed information in this regard.

Item 8 was considered at this time.

8. Discuss payment of damage claims and provide direction to staff. Exhibits: None.

Vincent said Devine had requested a basic discussion of the legal principles involved in considering tort claims in

Oklahoma. He said he prepared a copy of City of Holdenville v. Moore and City of Oklahoma City v. Romano, which are the two main cases that are cited in the legal opinions; Holdenville primarily dealing with sewer backups, and also Romano deals with that, but Holdenville is the key case. Staff had highlighted in those cases the principles involved in requiring notice and other things in order for those claims to be payable. Vincent said the other thing Devine was concerned with was State Statute 62 OS 372, which has to do with payment of fraudulent or void claims, and 373 which has to do with how somebody could bring a claim against a Council member, individually or as a group, if they felt that a fraudulent claim had been approved by the Council.

Vincent said their legal opinion is not a final determination; a final determination is made by the City Council based on the facts that are presented in the opinion and any information that is provided from the floor. He said if the Council feels that the City was negligent, after applying the principles on a sewer claim, for example, as set out in Holdenville, they can make that determination that the City was negligent and then it would be proper to pay a claim, even though the City Attorney may have recommended that it is not, based on the information they had at the time the legal opinion was done.

Vincent gave an example where there was a water line breakage claim on Cache Road and the information from Public Works indicated that there were no prior problems with that water line. He said the claimant appeared at the Council meeting and produced 13 work orders that were completed on that water line shortly prior to the break in front of his house but that was not reported. Vincent said the system has been improved since then, but it is not infallible, so information may be provided from the podium by the claimant or another person that would show that the City did not have all of the facts when the legal opinion is written, but if everything stays the same and we apply the principles to these cases correctly, then it is staff's recommendation that Council follow that unless Council knows something staff does not.

Mayor Powell said he had a problem with Vincent saying a fraudulent claim or void claim, and that he did not see how this came under a fraudulent claim. Vincent said in terms of this, fraudulent or void means that the claim should not have been paid. Vincent said the claimant in Item 1 feels it is a perfectly legitimate claim; a void claim, on the other side of the coin, is one that should not have been considered by the Council because it does not meet the legal requirements of, for example, negligence. Shanklin said that would be in someone's opinion and Vincent agreed. Vincent said all it takes for the Council to pay a claim is to make a determination that there was negligence on the part of the City as applying these legal principles set out by the Oklahoma Supreme Court.

Devine said his reason for bringing this was that Vincent had told him that if Council approves a claim that a group of ten or more citizens could file a lawsuit against one or all of the Council members and they could be sued individually, or as a whole, and if they lose, they would have to pay three times the claim. Vincent said the court can find damages not to exceed three times the amount of the claim, yes sir. Devine said when the City Attorney's office says a claim should be denied, and then Council approves it, would that leave the Council open for a lawsuit. Vincent said not necessarily, if additional information is provided and Council finds that the additional information is more true than the information available at the time the opinion was written, then Council makes that finding and approves the claim, and that is perfectly permissible.

Purcell said if there has never been prior notice, absolutely, then according to State law we are not authorized to pay the claim. Vincent said that is correct according to the Holdenville case. Purcell said if there was prior notice, even though it was not known about when the opinion was written and Council finds out this had happened before and it was not the first time, then Council does have the authority to pay the claim. Vincent agreed.

Shanklin said if you want to be worried about a class action law suit you could go back to Page 453. He said he had already checked on another claim and two people will testify, if it comes to that, that they have had sewer backups and it has not been longer than five years. Shanklin said Council members do not have the authority to jump behind an employee's desk and get in their computer and see if it was put in, and some lines are maintained constantly and obstructions are cleared but they do not say anything about it. He said he did not know how we could be under EPA mandates to take care of our sewer system and think that we have not had problems. Mayor Powell said it seemed they had put us on notice to the tune of \$62 million.

Smith asked if it was a State law or a Supreme Court ruling that stated cities cannot pay on claims without prior notice. Vincent said the State Statute says a city has to be negligent. Smith asked if that was up to the Council to determine if there was negligence on the City's part. Vincent said in the case of sewer backups, the Supreme Court, in Holdenville, said to be negligent you had to have prior notice and a reasonable opportunity to correct the defect before the city is liable; that is just a Supreme Court case, it is not a statute.

This concluded discussion on Item 8.

Discussion resumed on Item 1 at this point.

Mayor Powell said Council would consider the claim of Karen Lynette and Herman Kesner and asked Vincent if the amount he stated was \$1,470. Vincent said if Council determines the claim is payable, that would be the recommendation. Mayor Powell asked what made the reduction in the original amount requested. Vincent said depreciation on the floor covering which was eight years old. Shanklin asked which ward 7015 SW Winchester was located in and Beller said Ward Six.

MOVED by Beller, SECOND by Shanklin, to pay the claim in the amount of \$1,470.00.

Purcell asked if there was any proof or any indication from anyone that we had prior notice of this prior to this backup; was there a backup there before and was the City Attorney's office able to determine that. Vincent said according to the claimant, she moved in ten years ago and there were no backups during that time. Beller said calls may come in to a department of a stoppage and it may not always be recorded as such and that was the basis of his concern. Beller said he felt if it was a backup in a City line, it was the responsibility of the City to reimburse those people for their losses.

Devine said another claim will be coming before the Council and the City could not find where there had been problems with it. He said it came back to him where he had done some work on the line and the statement was made to him that the City normally discards or destroys the records after three years but that he kept his back for six years and it showed we had done the work. Devine said he did not know how true that was, but if that was the case, we may not have anything past three years.

Hanna asked if we pay this claim, what is to preclude any citizen from saying they have had problems with the sewer line and want a bill to be paid for damages done to the home and there has been no proof anywhere down the line. He said it could be opening a can of worms. Mayor Powell said on this claim the City admitted we had to go out and rod and clear our own line to remove the stoppage so we have admitted that we were at fault on this. Vincent said we did find a blockage at the time of this backup. Mayor Powell said there is no doubt there was a blockage in the City's line and it is in writing.

Purcell asked if we do not have records more than three years back. Hedy Jackson, Assistant City Attorney, said she spoke with Wastewater today regarding Mr. Devine's reference, and Mr. Justice told her that they are keeping records only for three years so we do go ahead and ask other people, like in this case we asked the claimant, but the division is only keeping records for three years.

VOTE ON MOTION: AYE: Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Hanna. NAY: None. MOTION CARRIED.

The Clerk asked if a resolution should be involved.

MOVED by Beller, SECOND by Devine, to authorize the City Attorney to draw up Resolution No. 00-42 to accommodate the claim. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 00-42

A resolution authorizing and directing the City Attorney to assist Herman and Karen Lynette Kesner in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of One Thousand Four Hundred Seventy Dollars and no cents (\$1,470.00).

2. Consider the damage claim of Beverly Jane Schau. Exhibits: Claims Memorandum/Recommendation.

MOVED by Shanklin, SECOND by Smith, to adopt Resolution No. 00-43 in the amount of \$1,063.60 for the damage claim of Beverly Jane Schau at 1001 NW Bell be approved.

Baker said he wanted to clarify that Public Works retains the records for three years, and as long as he could remember the standard for prior knowledge has been three years. He said every City Attorney he had worked with and when he was in Public Works, that has been the key factor, has there been a defect in the last three years, so he wanted to explain why the records were maintained for three years.

VOTE ON MOTION: AYE: Shanklin, Beller, Haywood, Warren, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 00-43

A Resolution authorizing and directing the City Attorney to assist Beveerly Jane Schau in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of One Thousand Sixty Three Dollars and Sixty Cents (\$1,063.60).

BUSINESS ITEMS:

3. Hold a public hearing to consider the Consolidated One-Year Action Plan for 1 July 2000 thru 30 June 2001, receive input from citizens, provide input for final plan, and if appropriate pass a resolution authorizing the Mayor and City Clerk to execute documents submitting the plan to the U.S. Department of Housing and Urban Development (HUD) and to execute the Grant Agreement when HUD requests such document be executed and to execute other documents required by HUD to implement the CDBG and HOME programs. Exhibits: List of Funding Requests; Two Alternatives for Funding; Resolution No. 00-\_.

Frank Pondrom, Housing and Community Development Director, said \$6 million had been received in requests for funding. He outlined how he planned to proceed with the information and public hearing. Shanklin suggested a workshop be set if this will take 45 minutes to an hour. Pondrom said he thought we could get by in five minutes like we did at the planning commission, but then we have a public hearing. Staff presentation with power point proceeded.

Pondrom said funds are available of \$1,121,000; we are required by HUD to have this public hearing and one of the things we have to tell you is how much money is available. He said the eligible activities include projects that benefit low and moderate income persons, projects that eliminate slums and blight and other urgent needs. Pondrom said projects that benefit low and moderate income can be accomplished in two ways, one is direct benefit and the other is area benefit. Direct benefit is if a person makes less than 80% of the median income, he qualifies for housing rehabilitation. On area benefit we use census data and if a project is in an area that serves at least 51% low and moderate income persons then that project is eligible. One activity is slum and blight elimination, and a direct benefit is used in demolition on a spot basis. The last category is urgent need which would include tornado relief and other natural disasters but it is not used frequently.

Pondrom said the agenda folder contains Alternatives A and B; the difficult part was trying to meet the public service gap, 15% of the total goes for public services, or \$168,000, and many persons tonight will probably address that issue. Alternative B deals with trying to spin off the Med Trans operation into an economic development activity, thereby freeing up money that could be used to accommodate more of the public service activities. The other part of Alternative A was infrastructure improvements, such as the Wisconsin water line in the Lawton View area.

Haywood asked if Med Trans was being moved to economic development. Pondrom said in Alternative B he was trying to find a way to fund more public service activities, and one way would be to spin off the Med Trans activity. Pondrom said based on a conversation with Julie Sanders in Transportation Planning he was not sure we could not fund Med Trans; Med Trans is funded from 1 September to 30 June and we cannot find something to substitute for that service between now and then so he was backing off on that requirement. Pondrom said he felt Med Trans should be funded at its full request, \$78,000, and that must come from the \$168,150 because we are limited to the 15%. Haywood asked if it could be put in economic development. Pondrom said we can but he did not think we could do that and get something in the place of Med Trans to substitute for it by 1 September; originally he thought it could be done but did not think so at the present time. Pondrom recommended funding Med Trans and eliminating either the New Directions request for \$16,000 and/or the Housing Authority's request for a revolving loan fund. Haywood asked if either New Directions or the Housing Authority could come under economic development. Pondrom said security equipment at New Directions battered women's shelter would be a public service activity; the Lawton Housing Authority wanted loans for a variety of things, including to help purchase cars, and that could be, with some modification, an economic development activity but the way it was written it fell more in public service. Pondrom said if the Housing Authority loan was rewritten for public housing residents to receive funds to start their own businesses, but not for consumer loans or to pay for cars, but if it was a micro enterprise, or a small business with less than five people, then you could call it economic development.

Purcell asked the difference between Alternatives A and B. Pondrom said Alternative B moves MedTrans into a privatization activity that calls it economic development, which frees up \$65,000 that can be allocated to fund Med Trans at its entire request; it does not allow us to fund all requests at the level requested but allows us to undertake some activity. Purcell asked if staff recommendation was Alternative B. Pondrom said he recommended funding Med Trans at the requested \$78,000, that we reduce enough money from either the Housing Authority's loan request or the New Directions Women's Shelter. Purcell said Alternative B shows zero for Med Trans; Alternative A shows \$65,000, and there are other differences such as Marie Detty and Taliaferro, Zoe Needs is different. He asked which was the staff recommendation. Haywood said Alternative A. Purcell asked if that was with the exception of the \$65,000 for Med Trans. Pondrom said his recommendation would be a variety of A and B and it was just gelled yesterday. Purcell agreed a workshop is needed.

MOVED by Shanklin, SECOND by Purcell, to continue this to May 1 at 6 p.m. to have a presentation and public hearing of CDBG. AYE: Beller, Haywood, Warren, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

4. Consider a request from the Jim Taliaferro Community Mental Health Center (CMHC) to review grant requests for Supportive Housing Program and Shelter Plus Care Program funding, and if appropriate provide a letter signed by the Chief Executive Officer certifying the proposals' consistency with the goals and objectives of the City of Lawton Consolidated Plan. Exhibits: Letter of Request from Jim Taliaferro CMHC; Proposed Certification Letter.

Pondrom said this organization has prepared an application to HUD for funding other than block grant, and the application for those funds requires the City to provide a letter to certify that what they are asking in the use of HUD funds is consistent with the Consolidated Plan. He said the only action tonight is to authorize the Mayor to sign such a letter; it does not commit the City to fund anything; however, for information, they have requested some funds in connection with that, but approving the submitting of the application does not commit that funding. Shanklin said it shows \$23,850 is requested and asked where that funding would come from. Pondrom said that amount is requested from CDBG but the letter right now will say they have applied for that money. Beller said the programs are separate and distinct. Shanklin asked if the City or CDBG was being obligated for \$23,000 and Pondrom said no.

MOVED by Beller, SECOND by Haywood, to approve the proposed certification letter and authorize the Mayor to sign it. AYE: Haywood, Warren, Smith, Hanna, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

5. Consider awarding a construction contract to S.M. Burk Mechanical Contractors for the 2000 CIP Waterline Replacement Project #2000-12. Exhibits: Map; Bid Tab.

Jerry Ihler, Public Works Director, said the 2000 CIP contained \$7.3 million for water distribution improvements. This item is a bid award for the first part of that funding and it will be broken out into projects in approximate amounts of \$800,000 to \$1 million over the next five years. The low bid was S.M. Burk Mechanical Contractors in the amount of \$775,950 and staff recommendation is to award to Burk. Baker said this is on the regular agenda due to the size of the contract, which was the subject of previous Council discussions as to where an item would be placed.

MOVED by Purcell, SECOND by Smith, to award a construction contract to S.M. Burk Mechanical Contractors for the 2000

CIP Waterline in the amount of \$775,950. AYE: Warren, Smith, Hanna, Devine, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

6. Consider approving a proposed reorganization, establishing a Neighborhood Services Division. Exhibits: Memorandum.

Baker said the reorganization would eliminate the Code Compliance Division and establish the Neighborhood Services Division under the City Manager's division budget. The position of Zoning Administrator would be eliminated and the position of Assistant to the City Manager would be added. This position would be responsible for supervising and managing the Neighborhood Services and providing administrative support to the City Manager's office. Baker said citizen complaints deserve attention from top management and we can streamline the process and establish a hot line to handle nuisance complaints and complaints in other areas. He said this change should be beneficial to the citizens and to the City Manager's office and will not cost anything; the cost of adding an Assistant to the City Manager would not exceed that of the Zoning Administrator. Baker said he would be looking for someone with strong management and supervisory skills who could provide administrative support to his office and supervise this activity. The division will be moved to the offices south of the City Manager's office, currently occupied by the Engineering Division which will relocate to the Public Works building around July 1.

Purcell said he thought it was a great idea and the hot line telephone number should be given out through the media and placed in the telephone book under complaints under the City of Lawton. He said no one knows where to call right now and that is a problem.

Shanklin asked if Baker had anyone on the City payroll right now that could hold this job. Baker said we may have but the job description has not been written yet. Baker said he was not sure we had anybody with the requirements that would be interested in the position, and he would advertise externally and internally and it will be critical to get the right individual for this position and that is a key to making it successful. Shanklin asked what the person would do besides oversee six people. Baker said that will be an intensive job, and the person will provide administrative support to the City Manager's office. Baker said if we have an individual who has the capability of doing good research, writing a complete report, preparing items for the City Council, doing research for the City Manager's office, and those type of things, it will save time for the Manager and Assistant Manager. Shanklin asked if it would be the same payroll as the person who had the other job before. Baker said he was anticipating it would be in the same range. Shanklin said he hoped it would help and when a complaint is called in by a city councilman it should not go to this department and say a certain councilman was complaining about something and people should not be told councilman call in on them and that happens now. Baker said it should not be happening now. Shanklin asked what Baker would do to keep it from happening and Baker said he would make the individual supervising the activity responsible for that, he will be directly responsible to the Assistant City Manager and if it happens, we will have to take corrective action.

MOVED by Smith, SECOND by Warren, to approve the proposed reorganization and authorize the City Manager to proceed with necessary administrative actions. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

Mayor Powell said a husband and wife were present and had called his office about a proclamation regarding the Holocaust and an error was made in not having it, for which he apologized.

Benjamin Rosenbluth said he was the certified lay leader of the Lawton-Fort Sill Jewish Congregation. He thanked the Mayor for issuing such a proclamation since the Holocaust was such a terrible period. Rosenbluth related his experiences in the Navy during World War II and the segregation that took place years ago. He said we forget the events of the past at our peril and gave the following quote from Martin Nemo: "They came for the Communists and I did not speak up because I wasn't a Communist. They came for the Socialists and I did not speak up because I was not a Socialist. They came for the union leaders and I did not speak up because I wasn't a union leader. They came for the Jews and I did not speak up because I wasn't a Jew. Then they came for me and there was no one left to speak for me." Rosenbluth said he was pleased with the amount of progress made in this country to make one people out of many.

7. Discuss the procedures involved in abatement of high weeds and grass as far as issuing notices and citations. Exhibits: None.

Purcell said he requested the item and reviewed the current enforcement procedure. He said there are habitual offenders who know to mow property before the ten days is up so that nothing is done and no citations are issued; then a couple of weeks later, the property needs mowing again and at that point the City can send it on to be mowed but we may not be issuing citations, so he requested the briefing. Purcell said a possible procedure could be to issue a citation after the first posting of a property for the year, if other action is needed after that, a citation could be issued.

Vincent said the Administrative Order starts the ability for the City to mow a property multiple times in six months, but the citation is a criminal violation. Purcell said it is made so confusing that no one understands and that further contributes to the problems; he reviewed the procedures staff had related in the memorandum. Purcell said his suggestion was that if the City has to send a property to be mowed after it had gone through the process one time and needs attention a second time during the six-month period, the citation would be issued.

Shanklin pointed out properties are managed by real estate firms or occupied by renters and asked who would receive a ticket in those cases. Dan Tucker, Code Administration Director, said in order to issue a citation they must have a Social Security Number of an individual. Tucker said a property may have gone back to a lending agency and they would have access to the name of the agency but not a Social Security Number for an individual, and those are the ones that are processed repeatedly, as well as those where the owner is deceased and the property is in limbo. Shanklin and Tucker discussed the current procedures. Shanklin asked if a yard stick is used when pictures of the property are taken to be able to identify the height of the grass. Tucker said it is not and you could not see the height mark on a yard stick with the cameras we use but it is normally real obvious.

Smith asked if a property is repossessed by a bank, is the bank fined if they do not take care of a mowing. Tucker said he cannot file criminal charges in Municipal Court without a Social Security Number of a person who is responsible for the property, so a citation would not be issued in that case.

Vincent said his office had never been asked a question as to how to write a ticket against a business and he would discuss that with Tucker. Mayor Powell asked that these issues be addressed and the item returned at the next Council meeting. Warren said the City Manager should understand the Council's desire to have citations issued for repeat offenders and suggested a tax identification number of a business might be useful. Baker said a bank or mortgage company is not getting off without paying anything because they are billed for the charges and if they do not pay, it is placed as a lien against the property. Mayor Powell said the key issue is to get the places cleaned up and then who will get the bill for it.

Hanna said it is a cat and mouse game; if a realty company is told to mow it, they may do so but staff then may have to go back to them each time a property needs to be mowed rather than the company taking care of the property on their own. He said something needs to be done to stop that practice and the company is collecting from the owner to take care of such things.

Purcell said the object is not to give someone a ticket and mow their lawn, the object is for them to mow it themselves. Mayor Powell said the staff has heard the concerns and we will look forward to this coming back at the next meeting.

9. Consider authorizing the City Attorney to take the necessary legal action to collect delinquent landfill charges from Parker Construction Clean-up. Exhibits: Promissory Note; Notice of Delinquency.

Steve Livingston, Finance Director, said this item is a landfill customer that has gotten himself in arrears and we entered into a note with him to try to get our payments of about \$6,000 and we have received one \$100 payment on that note and have not received any other payments so we would like to proceed with trying to collect this promissory note.

Mayor Powell said he would like to add a little bit more to that and there is always another side to the story and there is a reason for this \$6,000 in arrears. He asked Livingston to address that. Livingston said this came from the Landfill and he had none of the background on it. Mayor Powell asked Baker to address it.



Baker said it is not entirely this gentleman's fault; this gentleman is a frequent user of the Landfill and has been for years. Several years ago, and Council is aware of this, Parker gave some materials to the Landfill, some lumber they said they could use, and he set up an unofficial agreement with the Landfill attendant at that time that he would give these valuable materials to the Landfill and he would not be charged to dump. Baker said that went on for some time, our attendant allowed it to happen, that particular attendant is deceased now but when a new attendant was hired, it had been kind of a standard practice for this individual because he was bringing in stuff the Landfill could use. He said that procedure has since been stopped; it was certainly not an appropriate thing, it is not a good idea, and subject to a lot of abuse. Baker said our attendant allowed this to happen over a period of years; there is no doubt that the dollar amount is valid but whether or not this gentleman should have to pay it is a matter of debate; if our employee, acting on our behalf, allowed them to dump free then should we come back after the fact and require payment from this individual.

Beller asked if we are going after this \$6,000, are we going to reimburse the man for whatever amount of materials he may have given to the Landfill. Baker said he did not think that would be feasible and that we could never account for them and put a dollar amount on them. Beller asked if this \$6,000 is strictly contingent upon those amounts that he supposedly gave to the City; is this after the fact, we had an agreement and now we are telling the gentleman he owes the \$6,000 because we do not like the way it was set up but he may have entered into an agreement thinking this was the way it was going to happen and how can we now ask for \$6,000. Baker said the agreement was not an official agreement, it was one that should not have been made and his recommendation would be that we not require the gentleman to pay this. Beller said that was basically what he was going toward and if Parker owed Landfill fees and we told him and he did not pay it, he could understand pursuing it, but it will cost money to go to court and if Parker brought in people that said they had that agreement, he did not see how the City could win. Beller said his position was that we do not authorize the City Attorney to file a lawsuit and that we waive this particular \$6,284.07 fee. Mayor Powell asked if that was in the form of a motion.

MOVED by Beller, SECOND by Smith, that we do not authorize the City Attorney to file a lawsuit and that we waive this particular \$6,284.07 fee.

Devine said he had planned on making the same motion but adding that the City would get a release from that man that he no longer gets free dumping, that all sheets are wiped clean at this time, that the City does not owe Parker any more money and Parker does not owe the City any more money. Mayor Powell said he is on a cash as you come basis now. Beller said it is an after the fact thing, \$6,000 will not make or break the City but it certainly would leave a bad taste in his mouth if he were Mr. Parker after having an agreement with someone who was in fact a representative or officer of the City.

Purcell said he agreed with Beller. Purcell said something caused us, in October 1999 to now say he owes \$6,000, and he asked what was it. Mayor Powell said that is in your audit report that our auditor performs for us, that report is in there about this particular case. Shanklin said and 40 or 60 others. Purcell said we have not written 40 or 60 promissory notes, that is the reason for the question of why this promissory note. Mayor Powell said it was his understanding, and someone can correct him but he did not think he was wrong, Parker did sign an agreement, a promissory note, and he has not lived up to his portion of the agreement as far as the payments per month are concerned. Mayor Powell said Parker had come to talk to him twice and there is still another side of the story to what has already been told and he would rather not get into this because it does talk about personnel. Mayor Powell said as far as him holding anything against the City or anything like this, it was his understanding that Parker has been paying cash as you enter type of deal since this has happened.

Haywood asked if the City should keep the \$100 or if Parker should be reimbursed. Mayor Powell said he was sure we would keep that.

VOTE ON MOTION: AYE: Hanna, Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

10. Consider receiving a presentation from the Public Works Department regarding the current status of projects for the 2000 Capital Improvements Program. Exhibits: None.

Jerry Ihler, Public Works Director, gave a power point presentation on the 2000 CIP. First quarter projects from sales tax are the Medicine Park Plant Expansion, the Landfill, and the Eastside Park. First quarter projects from ad valorem are Water Distribution, NW 38th Street Reconstruction, and Fire Station #5 Relocation. Ihler's remarks are summarized as follows:

Medicine Park Plant Expansion to 40 mgd: On April 11 the Council amended the engineering contract with CH2M Hill, Inc. from Tulsa. Estimated contract amount will be in the neighborhood of \$2.5 million as we finish the project; estimated construction amount is \$27 million for the expansion. The current Medicine Park Plant has a 10 mgd portion constructed in 1933 and a 25 mgd portion constructed in 1967. The south plant 10 mgd portion will be abandoned and the north portion will be expanded to 40 mgd.

Landfill Cells 2 & 3: On April 11 Council awarded a construction contract to Ideal Construction, Inc. of Muskogee, Oklahoma for \$2,273,400 and time of completion was 180 days. The future Landfill project deals with the Silk property the City purchased which is south of the existing Cells 2 & 3; on April 11 Council awarded an engineering contract to Burns & McDonnell, Kansas City, MO, in the amount of \$360,300. Scope of the contract includes a master plan for the 430 plus acres and will require an ODEQ permit to serve an area that will last the City for about 30 years and the design portion will require plans and specifications to take us for ten additional years beyond what we have in Cells 2 & 3.

Eastside Park and other Park Projects: On April 20 we received proposals from architects and the Engineering Selection Committee will review them; scope of services for the first phase will be a community park that will consist of four youth baseball fields as well as dugouts, landscaping and parking. Eastside Park is located directly west of MacArthur High School.

Water Distribution Project 2000-12: \$7.3 million was approved in ad valorem and CIP sales tax funding. A construction contract was awarded tonight to S.M. Burk Mechanical Contractors in the amount of \$775,950. The project will consist of 2,250 lf of 12" and 14,850 lf of 8" water line, or the first phase will be 3.2 miles of water line replacement and locations vary throughout the City and consist of the high maintenance areas.

NW 38th Street, Cache Road to Rogers Lane: On April 11 Council awarded an engineering contract to Robert B. Hendrick & Sons for \$137,500. This is an ODOT Project and the timing for construction will depend on when matching funds are received from the federal government and ODOT. The Hendrick contract includes design and plans and specifications for a four-lane roadway on 38th Street from Cache Road to Rogers Lane.

Fire Station 5 Relocation Project: Current Station 5 is located at the intersection of Gore Boulevard and NW 53rd Street. On April 11 Council awarded an architectural contract to GBA Architects of Altus, OK for \$41,905; design consists of preparing plans and specifications and there is potential for a four-bay fire station.

11. Consider receiving a presentation from the Finance Director regarding revenues and expenditures. Exhibits: None.

Steve Livingston, Finance Director, distributed the monthly financial report. He said when a budget is developed, staff must estimate how much the carry over will be into the budget year; this year in the budget we are now operating in we had estimated that our carry over would be about \$2.5 million. When the audit was finished by the external auditor, the final carry over number was \$3,394,000 which means that for this year we had \$800,000 more in resources that came from the prior year in lapse funds and excess collections that were not anticipated in the budget.

Livingston said although the City collects about \$49 million in revenue, they are fairly well defined in two areas, sales tax and utility revenue; 82% of the revenue comes from those two categories. The two cent sales tax makes up about 35% of the total operating revenue, and the utilities of water, sewer and refuse make up about 47% of the rest of the operating revenue. Sales tax this year has been running about 5% and we estimated this year would be above the prior year by 3% and overall this year through the end of March we are estimating, above the budget number we estimated, we have collected \$239,000 more than what we had budgeted that would be available for next year's budget.

Livingston said water sales make up about half of the utility revenue. Through the end of March, these revenues are down about \$445,000 less than last year's actual collections for those three quarters, however, we had budgeted about \$639,000 reduction in water revenue because last year's actual was quite high, we did not think we would repeat it and that has been an accurate assessment. Although collections are down over actual, it is a little bit ahead of budget, and right now

through the end of March we estimate it is about \$193,000 above what the budget estimate was. Sewer revenue is dependent upon water because of the consumption, to a large degree, and we had estimated a decrease there of \$260,000, and actually sewer is holding pretty good and is down, compared to budget, about \$93,000, so we are up about \$167,000 over what we had estimated. Most of this is attributed to the new industries; Republic is using 1.4 million gallons of water per day on average since they have come on line; Bar-S and Wackenhut are maintaining a consistent pace and they are contributing an additional \$35,000 approximately in water revenue per month, and around \$20,000 in sewer revenue per month, which has helped make up for some of the decreases that came from normal consumption. Use tax has been a really good item this year based on Republic Gypsum; collections are up about 44% from last year. Use tax was budgeted about level because there had been construction from Bar-S and Wackenhut in prior years so we did not know where this would go and it has been very good news and is above what was budgeted by about \$265,000. Overall revenues at the end of March are about \$1.3 million more than budgeted, and that is very good news.

Livingston said on expenditures it becomes much more difficult to estimate where we are at any given time; 68% of the budget is made up of personal services and payrolls have been compared. Increases were granted to all employee groups and only a 3% for general employees was included in the budget and there have been no supplementals to cover those additional pay increases. At the end of the year there are the longevity, holiday pay and sick leave payments for the different groups and those total over \$1 million but even with that, it is estimated that we will lapse about \$1 million in appropriations. There is a natural lapse where every department cannot spend everything in every account. We are estimating we will generate \$3.1 million, if you add the \$1 million in expenditures and projecting on expenditures through the end of the year, and on revenue it is estimated we have over collected about \$1.3 million and there is the \$800,000 out of the carry over.

Livingston said a lot of hard work was done in the Finance Department to be able to close and pay off the 1995 \$5 million bond and we will get those residual funds, although we have kept those numbers active and into the 1995 CIP. The 1996, \$10 million bond and 1997 \$10 million bond have been paid off and those were to fund the construction of the wastewater plant and that project is completed and the obligations have been paid off, but in their place, we have the Oklahoma Water Resources Board where we have a line of debt obligation there, or at least the ability to draw down from them \$9 million. OWRB approved \$4 million from this year's funds and we have drawn down about \$2 million; we will roll those funds over and an item will come before Council when we get about \$3 to \$4 million; they are now in a temporary financing and we will roll those over into permanent financing with OWRB into the 20 year program that will be paid for by the \$2.35 sewer rate increase that was passed a couple of years ago and is being set aside to pay those.

Livingston said to get the programs of the 2000 CIP working, \$5 million in bonds have been issued. The final wiring of that money took place today, those funds are in the City's bank account and are being invested to pay these obligations and that is General Obligation City of Lawton. Livingston said he met with Bank America today and we have set up a bond anticipation note that Council has approved and we will draw down a little differently than what we have done on other items; we will draw down as we get invoices, they will be grouped together and funds will be drawn down and interest will not be charged to us until we borrow some down. There is a \$5 million limit on that but the project bids are a lot less than we had anticipated so we are hoping we can do Landfill Cells 2 and 3 at somewhat of a savings.

Purcell asked for clarification on the expenses and revenues. Livingston said the anticipated carry over for the next budget should be about \$3.5 million.

Shanklin asked if funds are received other than those shown through Revenue Collections on the sale of water. Livingston said the amount shown as water sales is the amount collected from the customers, and Shanklin could have been referring to the amount billed, or it could be collections, but Revenue Collections also has a number that represents billings and those numbers have to be reconciled because you bill someone, he has 20 days to pay, and he may pay this month or go longer than 20 days. Shanklin said figures from Mr. Carson show how much water revenue was collected three years ago for a particular month and then for that year. Shanklin said there are differences of a million dollars in some of it and he would ask Livingston about it tomorrow so he could explain.

Baker said the report sounds favorable, the revenues have been very good this year, and we should have \$3.1 million available to support next year's budget. He said Council should not get overly optimistic in hearing that \$3.1 million because we will have to budget the entire upcoming year for items such as the new pay plan, the additional pay increase for general employees, the fire and police raises, and the normal projected step increases in the pay plan. Baker said all of the personnel items are almost \$2.5 million in additional commitments. He said he would bring a balanced budget and it would be tighter than this indicates.

CONSENT AGENDA:

ITEM 12 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

13. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: Cache Road Baptist Church; Gary and Dixie Keller; Eugene and Margaret Looper; Southwestern Bell Telephone Company; and Brad Weaver. Exhibits: Legal Opinions/Recommendations. (Resolution Nos. 00-44, 00-45 , 00-46 and 00-47 on file in City Clerk's Office) Action: Approval of claims. Keller - \$70.00

(Title only) Resolution No. 00-44

A resolution authorizing and directing the City Attorney to assist Cache Road Baptist Church, Inc. in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Six Thousand Six Hundred Seventy-Five Dollars and 32/100S (\$6,675.32).

(Title only) Resolution No. 00-45

A resolution authorizing and directing the City Attorney to assist Eugene and Margaret Looper in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Eight Hundred Thirty-Nine Dollars and 65/100S (\$839.65).

(Title only) Resolution No. 00-46

A resolution authorizing and directing the City Attorney to assist Southwestern Bell Telephone Company in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Eight Hundred Fifty-Eight Dollars and 78/100S (\$858.78).

(Title only) Resolution No. 00-47

A resolution authorizing and directing the City Attorney to assist Brad Weaver in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Seven Hundred and no/100S (\$700.00).

14. Consider adopting a street light resolution to authorize installation of an additional street light. Exhibits: Street Light Resolution No. 412. Action: Approval of Street Light Resolution No. 412 establishing one light at SW 68th and Coralwood.

15. Consider deactivating the Outside Water Sales Committee. Exhibits: None. Action: Approve deactivating the Outside Water Sales Committee.

16. Consider approving a revocable communications cable permit for Caprock Communications for the installation and construction of a fiber optic communications cable system within the City's right-of-way. Exhibits: Location Map. Action: THIS ITEM WAS REMOVED FROM CONSIDERATION AND WAS NOT ACTED ON.

17. Consider amending the Crimestoppers Agreement. Exhibits: Amendment. Action: Approve amendment regarding money to be received from sale of property.

18. Consider revocation of City Council Policy 11-1. Exhibits: Council Policy 11-1. Action: Revoke Council Policy 11-1 regarding unclaimed property and proceeds of sale going to Crimestoppers.

19. Consider approving an agreement with the Board of Commissioners of Comanche County to submit a joint application for Juvenile Accountability Block Grant Funds. Exhibits: Draft Agreement; Intent of Qualifying Unit of Local Government Form. Action: Approval of item.

20. Consider accepting the left turn bay located at NW Sheridan Road and NW Erwin Lane and maintenance bond. Exhibits: Map. (Maintenance Bond on file in City Clerk's Office) Action: Accept the left turn bay located at NW Sheridan Road and NW Erwin Lane and the maintenance bond in the amount of \$2,850.00.

ITEM 21 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

22. Consider entering into a professional services agreement between the City and James C. Ferguson of Walker, Ferguson and Ferguson for Workers' Compensation claims. Exhibits: None. Action: Approval of agreement.

23. Consider entering into a contract with Mr. and Mrs. Mike Arite for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. Action: Approval of contract.

24. Consider awarding contract for PVC Sewer Pipe. Exhibits: Recommendation; Abstract. Action: Award contract to Oklahoma Contractors Supply, Oklahoma City, OK.

ITEM 25 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

26. Consider awarding contract for Abatement of High Weeds and Grass. Exhibits: Recommendation; Bid Abstract. Action: Award contract to Doolin Services LLP, Lawton, OK.

27. Consider awarding contract for Sale of Pumper Apparatus. Exhibits: Recommendation; Bid Abstract. Action: Award contract for sale to City of Elgin, Oklahoma.

28. Consider awarding contract for Custodial Maintenance Service. Exhibits: Recommendation; Bid Abstract. Action: Award contracts to H & H Janitorial for Group I; Pride Janitorial for Group II; and Service One Janitorial for Group III.

ITEM 29 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

30. Consider approving contract change order of Mowing & Litter Control with Terry Turner to delete Area C (67th Street). Exhibits: Letter from Mr. Turner; Change Order. Action: Approve Change Order.

31. Consider approving the following contract extensions: A) Radio Transmission Line with AF CommSupply; B) Redi-Mix Concrete with Southwest Ready-Mix; C) E-911 Equipment and Support Services with Southwestern Bell; D) Herbicides with United Horticultural Supply. Action: Approval of extensions.

32. Consider approval of appointments to boards, commissions and trusts. Exhibits: Memo.

Museum of the Great Plains Trust Authority:

Paul Fisher, Rep. Institute of Great Plains; Appt 1/27/98; Reappt. 4/25/00; Term: 1/27/00 to 6/30/03

Tom Wisener, Rep. Institute of Great Plains; Appt. 1/27/98; Confirmation 4/25/00; Term: 1/27/98 to 1/27/01

Dr. David Miller, Rep. McMahon Foundation; Appt. 1/27/98; Confirmation 4/25/00; Term: 1/27/98 to 1/27/01

Clark Smith, Rep. City; Appt. 1/27/98; Confirmation 4/25/00; Term: 1/27/98 to 1/27/01

Parks & Recreation Commission:

Neil Springborn, Term: 4/25/00 to 4/25/02, Ward 8 Rep.

Mike Strawn, Term: 4/25/00 to 9/24/01, Ward 6 Rep.

33. Consider approval of payroll for the period of April 17 through 30, 2000. Exhibits: None.

Mayor Powell asked that Item 16 be removed from consideration. Shanklin asked for separate consideration of Items 12, 16, 21, 25 and 29.

MOVED by Shanklin, SECOND by Smith, to approve the Consent Agenda items as recommended with the exception of Items 12, 16, 21, 25 and 29. AYE: Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Hanna. NAY: None. MOTION CARRIED.

12. Consider the following damage claims recommended for denial: Delman R. Bloom; and Mike and Juanita Sue Mathes. Exhibits: Legal Opinions/Recommendations.

Vincent said Mr. Bloom had submitted a form indicating he would be present to speak regarding his claim; Mr. Bloom was not present.

MOVED by Shanklin, SECOND by Smith, to deny the claims of Bloom and Mathes as recommended. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

21. Consider awarding a construction contract to Dan Dill Electric, Inc. for the Ahlschlager Park Lighting Project #2000-11. Exhibits: Map.

Verbatim transcript of this portion of the meeting is inserted for the record as follows:

"Shanklin: Item number twenty-one. We're offering a contract for \$148,000 to Dan Dill Electric and the 5% bidder's preference. Do we do that in contracts? If we can do it in contracts I would certainly want to give it to Electro Craft because they would be involved in that 5%, they do work Lawton people and they are Lawton.

Vincent: Public construction contracts are exempt from the 5% local preference, sir.

Shanklin: I just asked you that, now you're telling me that it's not, they don't get, they can't get 5%?

Vincent: I thought that was your question.

Shanklin: I don't even know what it was now, try it again.

Vincent: OK. The 5% bidders preference applies only for goods and services. It does not apply to public construction contracts.

Shanklin: Does not apply.

Mayor Powell: In other words you're locked into the low, low bid. Is that right, Mr. Vincent?

Vincent: Lowest and best bid meeting the specifications. If you determine any bidder is better than the low bidder then you can award to anybody.

Mayor Powell: OK.

Shanklin: Well, I don't know, it, we've done it before. What is that, is that about 3%? That's a 3% difference, isn't it? 3% on 100,000 and 3% on 50, 4,500.

Smith: Somebody with a calculator, I can't do that in my head.

Shanklin: It's about 3, 3.7%. I sure hate to see us give that to an out of town vendor. I'd make a motion that we give it to Electro Craft \$153,365.

Smith: I'll second it.

Mayor Powell: Motion on the floor and also a second to award the bid to Electro Craft...

Shanklin: Award the contract to Electro Craft, Inc.

Mayor Powell: OK. Discussion? Mr. Purcell.

Purcell: I just have a question of the City Attorney. Doesn't State law require us on construction contracts to award to the lowest bidder that meets the specifications, lowest bidder that meets the specifications unless we state why we're not going to award to the lowest bidder?

Vincent: That's what I said before, lowest and best bidder meeting specifications and we need to state what that is.

Purcell: Why are we....

Shanklin: The best bid, one of the reasons would be that Electro Craft has been in business here for about forty years and I don't, I've never even heard of Dan Dill. Where are they from and what have they done for us? Anybody got anything you

can tell us?

Ihler: The only thing I can tell you is that they are from El Reno, Oklahoma, and they have not done a project for us.

Shanklin: That's a good enough reason for me.

Mayor Powell: It has been stated....

Shanklin: Don't know anything about them.

Mayor Powell: Mr. Shanklin justified his motion. OK, Brenda, would you call the roll please?"

End verbatim transcript

VOTE ON MOTION: AYE: Shanklin, Beller, Haywood, Smith, Hanna, Devine. NAY: Warren, Purcell. MOTION CARRIED.

25. Consider awarding contract for Aluminum Bleachers. Exhibits: Recommend; Abstract.

Shanklin said there are 11 bleachers, it was budgeted for \$16,900 and it came in over \$21,310. He asked if this firm was the only one that met the specifications and said one firm stated they could not do the hand rail. Shanklin asked how it could be awarded if the price was more than 10% over the estimate. Livingston said this is not a construction contract, it is for materials. Shanklin said we have 11 vendors that we think are in this business and then find out there are two or three, and one of them participates and they get the job. Shanklin asked if this price seemed fair and if it had been compared to prices of any other firms. He said \$5,000 or \$6,000 is not much but it could help.

Gary Salva, Parks & Recreation Director, said there is \$16,900 budgeted for 11 bleachers; we cannot buy that many so we are taking the unit price and buying as many as we can. He said these are prefabricated bleachers that come unassembled and we assemble them, so we will be able to buy eight for this unit price. Shanklin asked what gave someone the idea that they could buy 11 of them for \$17,000. Salva said it was a mistake on Parks & Recreation's part.

MOVED by Shanklin, SECOND by Smith, to award the contract to CBS Contractors, McCook, NE. AYE: Beller, Haywood, Warren, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

29. Consider awarding contract for Scraper Tires and Service. Exhibits: Recommendation; Bid Abstract.

Shanklin said this item involves three \$4,000 tires to be used at the Landfill. He asked what piece of equipment these tires were for. Ihler said it is for the large 20 yard scraper. Shanklin asked if we need three tires and if there are three-legged animals out there. Ihler said it will be a requirements type contract. Shanklin asked if only one vendor was able to provide this tire. Ihler said only one firm submitted a bid.

Shanklin said the Council could approve it if they wanted to but he thought there should be more than one bidder. He said he did not care if they were in collusion but just did not want one guy bidding it. Devine asked how many were on the bidders list. Baker said it was sent to seven and one was received.



MOVED by Smith, SECOND by Purcell, to award a contract to T & W Tire, Oklahoma City, OK. AYE: Haywood, Warren, Smith, Hanna, Devine, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Shanklin said we turned in a water loss on 38th Street and got a letter back from Andy Hargraves, doing a tremendous job out there, had repaired 30 of those since March 3, with equipment and different types of apparatus. He said that was treated water coming down 38th and he would have known if it was rain or wash water; if he saw treated water, he saw treated water, and several of them did; it was too clear to have come from a wash rack or out of a creek.

Hanna asked that signs be posted at the Landfill stating the charges before people go in so they will be aware of what they can expect to be charged. Baker said he would take care of it.

Purcell said the last two meetings of the Parks & Recreation Commission had to be canceled due to lack of a quorum, and two new members were appointed tonight which should help solve the problem. He said more members are needed for the boards and if there are vacancies, they need to be filled. Purcell said there are several vacancies on several boards and we could use some help from the other good citizens who are out there trying to do their job. Hanna said he had a person who wanted to serve on the Parks & Recreation Commission. Mayor Powell asked that the name be given to his office.

Beller said a gentleman approached him with a concern about being charged a water bill if he is gone from the premises for an extended period of time, such as 90 days. He asked if there is a provision for waiving utility bills for those who are gone for an extended period of time. Baker said there is no provision on single family residences and they will continue to receive the minimum bill as long as the account is active; there is provision for multi-family to declare a vacancy. Shanklin said if you have one house and it is vacant, you fill out a form stating it is one of one. Beller said that is for rental property. Shanklin said they are not going to know and they will not go out and check it. Beller asked that staff look into this and see if a recommendation can be made.

Mayor Powell said on Thursday, May 4th, there will be the National Day of Prayer in front of the City Hall. He said the Trash Off was a complete success. Mayor Powell said a response was given today as to the questions asked by the persons out in the lagoon area, and it will be in the paper.

BUSINESS ITEMS:

34. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending investigation of the landfill, and if necessary, take appropriate action in open session. Exhibits: None.

35. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2000-2001 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

36. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2000-2001 between the Fire Union, IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

37. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled International Association of Firefighters, Local 1882, v. The County Election Board for Comanche County, Oklahoma, and City of Lawton, Case No. 94530, filed in the Supreme Court of the State of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

38. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled C. Steve Wilson v. The City of Lawton, a municipal corporation, and Gilbert Schumpert, Case No. CIV-99-2104, in the United States District Court, Western District of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

39. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Richard Crudup v. Darrell Southerland, et al., Case No. CIV-99-1428-R, filed in the United States District Court for the Western District of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

40. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Darvan S. Patrick v. City of Lawton, et al., Case No. CIV-99-917-C, filed in the United States District Court for the Western District of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

41. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Rebecca Thompson against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

42. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending action/litigation of Judy Kinder against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

43. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Michael D. Cornish vs. City of Lawton, Case No. CJ-97-138, in the District Court of Comanche County, and, if necessary, take appropriate action in open session. Exhibits: None.

44. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to evaluate the performance of the City Clerk, City Attorney, and Municipal Judge; and, take action as necessary in open session. Exhibits: None.

45. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to evaluate the job performance of the City Manager and, if necessary, take appropriate action in open session. Exhibits: None.

MOVED by Purcell, SECOND by Smith, to convene in executive session to consider the items listed on the agenda and recommended by the legal staff. AYE: Warren, Smith, Hanna, Devine, Purcell, Shanklin, Beller, Haywood. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8:05 p.m. and reconvened in regular, open session at approximately 9:55 p.m. with roll call reflecting all members present.

Vincent reported that executive session was held on Item 34, as shown in the item title, to discuss the landfill investigation and take appropriate action. He recommended a motion to approve the summary report dated April 25, 2000, and to close the investigation.

MOVED by Shanklin, SECOND by Smith, to approve the summary report dated April 25, 2000, and to close the investigation. AYE: Hanna, Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

Vincent reported that executive session was held on Items 35, 36 and 37, as shown in the item titles, and no action is required.

Vincent reported that executive session was held on Item 38, as shown in the item title, and recommended a motion to appoint a member to attend the federal mediation hearing, for which no date has yet been set.

MOVED by Shanklin, SECOND by Purcell, to appoint G. Wayne Smith to attend the federal mediation hearing in the Wilson case. AYE: Devine, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Hanna. NAY: None. MOTION CARRIED.

Vincent reported that executive session was held on Items 39, 40, and 41, as shown in the item titles, and no action is required.

Vincent reported that executive session was held on Item 42, as shown in the item title, and recommended a resolution be adopted to settle the Judy Kinder claim.

MOVED by Devine, SECOND by Hanna, to adopt Resolution No. 00-48. AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution No. 00-48

A resolution authorizing and directing the City Attorney to assist Judy Kinder in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton, and authorizing the City Attorney to confess judgment therein in the reduced amount of One Thousand Five Hundred and no/100 Dollars (\$1,500.00).

Vincent reported that executive session was held on Item 43, as shown in the item title, and recommended the item be tabled to the next meeting.

MOVED by Smith, SECOND by Purcell, to table Item 43 to the next meeting. AYE: Shanklin, Beller, Haywood, Warren, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

Mayor Powell reported no action was required on Item 44.

Vincent reported that executive session was held on Item 45, as shown in the item title.

MOVED by Purcell, SECOND by Smith, to amend the City Manager's contract effective immediately that gives him a 5% salary increase.

Baker said the 5% is the equivalent of the 2.5% that general employees received the first of March and then the other 2.5% is the equivalent of a step increase, so that is what constitutes the 5%.

VOTE ON MOTION: AYE: Beller, Haywood, Warren, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

Haywood said he would miss Warren and Beller as they leave office. Beller said he felt the City would be in good shape and that he did not feel bad about how things went as far as his replacement making a good council person. Beller said he felt if the new members would listen to the Mayor that he would take them in the right direction.

There being no further business to consider, the meeting adjourned at 10:05 p.m. upon motion, second and roll call vote.